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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,064	03/25/2004	Scott R. Conley	87610AEK	7002

7590

10/05/2005

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EXAMINER

KUGEL, TIMOTHY J

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,064

Applicant(s)

CONLEY ET AL.

Examiner

Timothy J. Kugel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 2,5-7,11,14,16,19,20,22,23,25,26,28,29 and 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,8-10,13,15,17,18,21,24,27 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-33 are pending as filed on 25 March 2005. Claims 2, 5-7, 11, 14, 16, 19-20, 22, 23, 25, 25, 26, 28, 29 and 31-33 have been withdrawn from consideration.

Election/Restrictions

2. Applicant's election of the invention of Group I, the species of Inv-5 as the anthracene compound in claims 1 and 24 and the species of TBP as the light emitter in the reply filed on 20 July 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). As such the restriction requirement is made **FINAL**.

3. The elected emitter species TBP has been construed as 2,5,8,11-tetra-t-butylperylene, an emitter of blue-green light, per the specification Device Example 1, Sample 1, Page 49 Line 14 – Page 51 Line 15.

4. Claims 28, 29 and 31-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 20 July 2005.

5. Claims 2, 5-7, 11, 14, 16, 19-20, 22, 23, 25, 25 and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 20 July 2005.

Specification

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

7. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 24, 27 and 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4, 12 and 13 of U.S. Patent No. 6,828,044 (Conely '044 hereinafter).

Although the conflicting claims are not identical, they are not patentably distinct from each other because Conley '044 claims an organic light emitting diode device comprising the elected anthracene host, and a light emitting compound that emits white or blue light and a method of emitting light comprising subjecting the device to an applied voltage.

10. Claims 1, 3, 4, 8-10, 12, 13, 15, 17 and 24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 6,670,053 (Conley '053 hereinafter).

Although the conflicting claims are not identical, they are not patentably distinct from each other because Conley '053 claims an organic light emitting diode device comprising the elected anthracene host, and a light-emitting compound.

11. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18 and 21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of copending Application No. 10/662,272.

Although the conflicting claims are not identical, they are not patentably distinct from each other because 10/662,272 claims an organic green-light emitting diode device comprising the elected anthracene host and a light emitting compound—

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including the elected light emitting compound (US Patent Application Publication 2005/0058853 Compound L2 ¶0125, see *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970)).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

12. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24, 27 and 30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 24 and 33 of copending Application No. 10/803,770.

Although the conflicting claims are not identical, they are not patentably distinct from each other because 10/803,770 claims an organic light emitting diode device comprising host—including the elected anthracene compound (US Patent Application Publication 2005/0208329 ¶¶0133-0140, see *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970)) and the elected light emitting compound that emits white or blue light (US Patent Application Publication 2005/0208329 ¶0006, see *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970)) and a method of emitting light comprising subjecting the device to an applied voltage.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

13. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24 and 30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19, 23, 24 and 39 of copending Application No. 10/897,357.

Although the conflicting claims are not identical, they are not patentably distinct from each other because 10/897,357 claims an organic blue or blue-green light emitting diode device comprising the elected anthracene host and the elected light emitting compound and a method of emitting light comprising subjecting the device to an applied voltage.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 21, and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 11/076,720.

Although the conflicting claims are not identical, they are not patentably distinct from each other because 11/076,720 claims an organic light emitting diode device comprising the elected anthracene compound and a light emitting compound—including the elected light-emitting compound (11/076,720 Specification Page 23 Compound L2, see *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970)).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 21, and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 11/136,768.

Although the conflicting claims are not identical, they are not patentably distinct from each other because 11/136,768 claims an organic light emitting diode device

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comprising the elected anthracene compound and a light emitting compound—including the elected light-emitting compound (11/136,768 Specification Page 17 Compound L2, see *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970)).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

17. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24, 27 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,661,023 (Hoag hereinafter).

Hoag teaches an organic light emitting diode device (Abstract, Figure 1 and Column 1, Lines 11-16) comprising the elected anthracene host as shown by compound F when R₁-R₅ are hydrogen and R₆ is a phenyl group (Column 18 Line 63 – Column 19 Line 31), and the elected light emitting compound (Column 19 Lines 30-45) capable of emitting white or blue light (Column 18 Line 63-67 and Column 19 Lines 1-14) and a method of emitting light comprising subjecting the device to an applied voltage (Column 13 Lines 10-30).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

18. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,670,053 (Conley '053 hereinafter).

Conley '053 teaches an organic light emitting diode device (Column 1 Lines 5-10) comprising the elected anthracene host as shown by compound F when R_1 - R_5 are hydrogen and R_6 is a phenyl group (Column 13 Lines 16-67, Claim 10), and the elected light emitting compound (Compound L2 Column 14 Lines 42-54) capable of emitting blue light (Column 13 Lines 16-20) and a method of emitting light comprising subjecting the device to an applied voltage (Figure 1, Column 2 Lines 32-34 and Column 8 Lines 36-49).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this

application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

19. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24, 27 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,828,044 (Conley '044 hereinafter).

Conely '044 teaches an organic light emitting diode device (Abstract, Figure 1 and Column 1, Lines 6-10) comprising the elected anthracene host as shown by compound F when R₁-R₅ are hydrogen and R₆ is a phenyl group (Column 4 Lines 15-56, Column 13 Lines 27-62 and Claim 4), and the elected light emitting compound (Column 1 Lines 64-65 and Compound L2 Column 14 Lines 55-65) capable of emitting white or blue light (Column 14 Lines 30-33 and Claim 13) and a method of emitting light comprising subjecting the device to an applied voltage (Column 8 Lines 43-55 and Claim 12).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

20. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24, 27 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication 2004/001969 (Cosimbescu '969 hereinafter).

Cosimbescu '969 teaches an organic light emitting diode device (Abstract, Figure 1 and ¶0001) comprising the elected anthracene host as shown by compound F when R₁-R₅ are hydrogen and R₆ is a phenyl group (¶¶0105-0112), and the elected light emitting compound (Compound L2, ¶0121) capable of emitting white or blue light (¶¶0105 and 0121) and a method of emitting light comprising subjecting the device to an applied voltage (¶¶0023-0025).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

21. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication 2005/0058853 (Cosimbescu '853 hereinafter).

Cosimbescu '853 teaches an organic green-light emitting diode device (Abstract, Figure 1 and ¶0002) comprising the elected anthracene host as shown by compound F when R₁-R₅ are hydrogen and R₆ is a phenyl group (¶¶0109-0116 and Claim 11), and the elected light emitting compound (Compound L2, ¶0125).

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22. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24, 27 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication 2005/0181232 (Ricks hereinafter).

Ricks teaches an organic white- or blue-light emitting diode device (Abstract, Figure 1 and ¶0002) comprising the elected anthracene host as shown by compound F when R₁-R₅ are hydrogen and R₆ is a phenyl group (¶¶0127-0134), and the elected light emitting compound (Compound L2, ¶0142 and Claim 27) and a method of emitting light comprising subjecting the device to an applied voltage (¶¶0003-0005).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

23. Claims 1, 3, 4, 8-10, 12, 13, 15, 17, 18, 21, 24, 27 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication 2005/0208329 (Conley '329 hereinafter).

Conley '329 teaches an organic light emitting diode device (Abstract, Figure 1 and ¶0001) comprising the elected anthracene host as shown by compound F when R₁-R₅ are hydrogen and R₆ is a phenyl group (¶¶0133-0140), and the elected light emitting compound (Compound L1, ¶0149 and Claim 24) capable of emitting white or blue light

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(¶0006) and a method of emitting light comprising subjecting the device to an applied voltage (¶¶0002-0003).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK
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A handwritten signature in black ink, appearing to read "Randy Gulakowski". The signature is fluid and cursive, with the first name "Randy" and last name "Gulakowski" clearly distinguishable.

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700